IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for Special leave to appeal under in terms of Article 128 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC/Appeal No. **SC/APP/147/2018**
SC/SPL/LA/Application No. **SC/SPL/LA/42/2016**
CA Case No: CA/PHC/161/09
High Court Hambanthota Case No. **HCA/117/2005**

Lanka Salt Limited,
Nirmana Mawatha,
Nawala,
Nugegoda.

PETITIONER

vs

1. Indrani Seneviratne,
   Provincial Commissioner of Revenue,
   Provincial Revenue Department,
   30, Walkwella Road,
   Galle.

2. Director,
   Geological Survey and Mines Bureau,
   4, Senanayake Building,
   Dehiwala.

RESPONDENTS

And

1. Lanka Salt Limited, (Formerly of)
   Nirmana Mawatha,
   Nawala,
   Nugegoda.

(Presently of)
Lanka Salt Limited,
Mahalewaya,
Hambanthota.

PETITIONER - APPELLANT

vs

1. Indrani Seneviratne,
   Provincial Commissioner of Revenue,
   Provincial Revenue Department,
   30, Walkwella Road,
   Galle.

1A. K.G. Piyathissa,
   Provincial Commissioner of Revenue,
   Southern Province,
   Provincial Revenue Department,
   30, Walkwella Road,
   Galle.

2. Director,
   Geological Survey and Mines Bureau,
   4, Senanayake Building,
   Dehiwala.

RESPONDENTS – RESPONDENTS

And Now Between

1. Lanka Salt Limited, (Formerly of)
   Nirmana Mawatha,
   Nawala,
   Nugegoda.

(Presently of)
Lanka Salt Limited,
Mahalewaya,
Hambanthota.

PETITIONER – APPEALLNT – PETITIONER – [APPELLANT]

vs

1. Indrani Seneviratne,
   Provincial Commissioner of Revenue,
   Provincial Revenue Department,
   30, Walkwella Road,
   Galle.

1A. K.G. Piyathissa,
   Provincial Commissioner of Revenue,
   Southern Province,
   Provincial Revenue Department,
   30, Walkwella Road,
   Galle.

2. Director,
   Geological Survey and Mines Bureau,
   4, Senanayake Building,
   Dehiwala.

RESPONDENTS – RESPONDENTS – RESPONDENTS – [RESPONDENTS]

BEFORE : Mahinda Samayawardhena, J.
Menaka Wijesundera, J.
M. Sampath K. B. Wijeratne, J.

COUNSEL : Saliya Pieris, P.C. with Pasindu Tilakaratne instructed by Manjula Balasooriya for the Petitioner- Appellant- Petitioner –[Appellant].

Manohara Jayasinghe, DSG instructed by Rizni Firdous, SA for the 1st Respondent - Respondent – Respondent – [Respondent].

Indunil Bandara with Chawindya Weerasinghe instructed by S.K. Fernando for 2nd Respondent – Respondent – Respondent –[Respondent]

ARGUED ON : 16.01.2026

DECIDED ON : 11.06.2026

M. Sampath K. B. Wijeratne J.

Introduction

This is an appeal seeking to set aside the judgment of the Court of Appeal dated January 29, 2016, which dismissed the appeal preferred against the judgment of the Provincial High Court of the Southern Province holden in Hambantota dated October 27, 2009, whereby the writ application filed by the original Petitioner [hereinafter 'Petitioner'], seeking to quash several notices issued by the Department of Provincial Revenue of the Southern Province for the recovery of Mineral Tax allegedly defaulted by the Petitioner Company, was dismissed.

The Petitioner is a company incorporated under the Companies Act No. 7 of 2007 and is engaged in the business of manufacturing and selling edible salt. The 1st Respondent sought to levy tax from the Petitioner on the basis that the Petitioner was carrying on the business of mining salt, which is taxable under the Finance (Supplementary Provisions) Statute No. 2 of 1994 of the Southern Provincial Council.

The Petitioner filed Case No. HCCA/117/2005 in the High Court, challenging the decision to levy Mineral Tax on the Petitioner. Although the Petitioner Company concedes that it initially made part payment of the alleged Mineral Tax, it subsequently refused to make further payments and informed the 1st Respondent that the imposition of Mineral Tax on the Petitioner Company was

ultra vires, as it did not engage in a 'mining business' within the meaning of Section 67 of the Mines and Minerals Act.

The learned High Court Judge dismissed the application both on the merits and on the preliminary objection that it was time-barred. The Court of Appeal affirmed the judgment of the learned High Court Judge. The instant appeal has thus been preferred by the Petitioner to the Supreme Court.

This Court, having heard the submissions of both parties, granted leave to appeal on the questions of law set out in paragraph 20(a), (b), (c), (d), (e), and (f) of the Petition dated March 11, 2016[1], which are reproduced below:

> *"a) Did their Lordships in the Court of Appeal and the Honourable High Court Judge err in failing to hold that the levying of the mineral tax on the Petitioner's salt production was ultra vires and of no force in law and ab initio void?*
>
> *b) Did their Lordships in the Court of Appeal and the Honourable High Court Judge err in failing to consider that the levying of the impugned tax on the Petitioner's production of salt was ab initio void and of no force in law as a result of which the objection of laches would not be a reason for dismissal of the Petitioner's application?*
>
> *c) Did their Lordships in the Court of Appeal and the Honourable High Court Judge err in failing to consider that a mining license was a prerequisite for tax to be imposed under the relevant statutory provisions and that the Petitioner was therefore not liable for the said tax?*
>
> *d) Did their Lordships in the Court of Appeal err when concluding that the "Southern Provincial Council has decided that the substance of salt is a mineral. Therefore, this Court cannot [give]any other interpretation contrary to the aforesaid interpretation", when their Lordships were well*

[1] Journal entry dated 26.09.2018

within their judicial power to interpret what a 'mineral' is in terms of the law?

e) Did their Lordships in the Court of Appeal and the Honourable High Court Judge err in failing to consider that the payments made by the Petitioner to the 1st Respondent cannot be interpreted to be an acceptance of the tax imposed on the Petitioner, since the principle of estoppel would not apply in this instance as the levying of the tax was ultra vires, not according to law and clearly beyond the jurisdiction of the provincial revenue authorities?

f) Did their Lordships in the Court of Appeal and the Honourable High Court judge fail to consider that the allegation of suppression of material facts are not tenable and are irrelevant in the light of the levying of the impugned tax being ab initio void and of no force in law?"

Evaluation of Facts and Applicable Laws

The learned President's Counsel for the Petitioner argued that, since the source material from which edible salt is ultimately derived is the sea, which falls within the exclusive domain of the Republic under the maritime zone reservation, it does not come within the legislative competence of the Southern Provincial Council.

It is the submission of the 2nd Respondent that the Southern Provincial Council has the power to impose a 'Mineral Tax' in terms of Section 9(1) of the Finance (Supplementary Provisions) Statute No. 2 of 1994 of the Southern Provincial Council, read with Section 67 of the Mines and Minerals Act No. 33 of 1992, and that the levy of Mineral Tax on the Petitioner's salt production was lawful. The 2nd Respondent further contended that the Provincial Commissioner of Revenue of the Southern Province acted within its powers in issuing notices for the recovery of the said Mineral Tax allegedly defaulted by the Petitioner.

The 13th Amendment to the Constitution, which introduced the system of Provincial Councils, sets out in the Ninth Schedule, the legislative competencies of law-making bodies under three separate lists. The Provincial Council List confers exclusive legislative authority upon the Provincial Councils in respect of the subjects specified therein. The Reserved List contains subjects in respect of which only Parliament may legislate. List III is the Concurrent List, which sets out the subjects in respect of which both Parliament and the Provincial Councils may legislate.

It must be noted that taxes on mineral rights, within such limits and subject to such exemptions as may be prescribed by law enacted by Parliament, fall within the legislative competence of the Provincial Councils.[2]

The law relating to minerals enacted by Parliament is contained in the Mines and Minerals Act No. 33 of 1992 (as amended). Section 67 of the Mines and Minerals Act No. 33 of 1992 has imposed limitations on the powers of Provincial Councils to levy taxes on minerals in the following manner: "*The taxes on the right to mine for minerals within a province that may be imposed by the Provincial Council established for that province shall not exceed 0.5 per centum of the gross turnover vale of the minerals mined in the exercise of that right."* Section 70 of Mines and Minerals Act No. 33 of 1992 defines '*mining*' *as 'excavating in, on or, below the surface for the purpose of evaluating and obtaining any minerals; 'mineral waters' means waters from which minerals may be extracted on a commercial basis.'*

Considering that all the works, machinery, plant, buildings, and premises, whether above or below ground, used for the extraction of edible salt are situated within the Province, I am of the view that the activity in question can be regarded as a mining activity within the province.

The learned President's Counsel for the Petitioner also contends that, due to the unique scientific process followed in the Petitioner's manufacture of edible salt,

[2]item 36:18 in list I (Provincial Council List) of the 9th Schedule to the Constitution.

the end product cannot be considered a ‘mineral’, although the definition of ‘mineral’ technically includes ‘salt’.

The Respondents contend that edible salt, being a product obtained from salterns and occurring naturally without being synthesized in a laboratory or factory, falls within the definition of ‘mineral’ under the Mines and Minerals Act No. 33 of 1992.

Section 70 of the Mines and Minerals Act No. 33 of 1992 defines the term ‘*mineral*’ as follows: ‘*a naturally occurring substance that can be mined, whether in solid, liquid or gaseous form, in or below the surface of the soil; any ores containing such minerals and any product of such minerals derived by processing and include peat and* ***salt*** *but does not include hydro carbons*;’ [emphasis added].

Where the words used in a statute are plain and unambiguous, they must be given their natural and ordinary meaning; the Court cannot read into the Act words that are not there or attribute a wholly different meaning to the provision, unless a literal interpretation leads to a manifest contradiction of the apparent purpose of the enactment or results in an absurdity that could not reasonably have been intended by the legislature.

In the present case, the Court cannot embark on an inquiry into the scientific process of manufacturing salt or the different forms in which salt may come into existence, as the Court is not equipped to undertake such an exercise. In such circumstances, the most appropriate rule of interpretation applicable to the relevant provision is the literal rule, which leads to the conclusion that ‘salt’ is a mineral without ambiguity.

The learned Judges of the Court of Appeal observed that, since the Southern Provincial Council had determined that salt is a mineral, the Court could not adopt any interpretation contrary to that position. This, however, is a *prima facie* erroneous observation.

Nevertheless, both the Court of Appeal and the High Court have arrived at the finding that 'salt' is a mineral upon a careful consideration of the provisions of the Mines and Minerals Act No. 33 of 1992. It is a general practice of legislative bodies to define terms used in statutes and to place such definitions in the interpretation section. As stated by Bindra in *Interpretation of Statutes* (8th edn., p. 40), where a word or phrase is defined in an enactment, that meaning, and that meaning alone, must be given effect to unless it is repugnant to the context of the statute.

The Court cannot indulge in speculation as to the probable or possible qualifications which might or should have been in the mind of the legislature; rather, the statute must be given effect according to its plain and ordinary meaning. In such circumstances, the erroneous observation made by the learned Judges of the Court of Appeal has not, in any event, caused prejudice to the Petitioner as the learned Judges of the Court of Appeal have interpreted the word 'mineral' correctly.

As it is already established that the Petitioner's business of producing edible salt falls within the purview of "*minerals within a province*," the levy of Mineral Tax on the Petitioner's salt production was within the powers of the Southern Provincial Council.

However, the learned President's Counsel for the Petitioner raised the argument that, since a license is a prerequisite for mining minerals and the Petitioner was never in possession of a mining permit, no Mineral Tax could be levied on the Petitioner.

It was submitted on behalf of the 1st Respondent that the pertinent question is not whether the liability to pay tax is conditional upon the activity sought to be taxed being carried out pursuant to a license, but whether the Petitioner company is, in fact, engaged in a mining activity. The 1st Respondent further contends that, if the Petitioner is conducting its business without first obtaining a license as required by Section 28 of the Mines and Minerals Act, which provides that "*[n]o person shall explore for, mine, transport, process, store, trade in or export any*

minerals except under the authority of, or otherwise than in accordance with, a licence issued in that behalf under the provisions of this Act and the regulations made thereunder:[…]", such conduct would amount to an illegal enterprise.

At this juncture, I do not wish to examine whether the Petitioner's enterprise is lawful or unlawful; I shall confine myself to the question of whether the Petitioner is liable to be taxed or not.

Section 9(1) of the Finance (Supplementary Provisions) Statute No. 2 of 1994 of the Southern Provincial Council reads as follows: *"පතල් ඛනිජ ද්‍රව්‍ය පනත (යටතේ නිකුත් කරන ලද බලපත්‍රයක හෝ අවසර පත්‍රයක බලය යටතේ පළාත ඇතුලත පිහිටි ඉඩමකින් යම් ද්‍රව්‍ය කැණීමේ සෙවීමේ, ලබාගැනීමේ හෝ ඉවත් කරගෙන යාමේ අයිතිවාසිකම් ලබාදී, අමාත්‍යවරයා විසින් ගැසට් පත්‍රයෙහි පළ කරනු ලබන නියමයකින් නියම කරනු ලබන අනුප්‍රමාණයට හෝ අනුප්‍රමාණයන්ට අනුව වූ, [මෙකී ඕන්මතු ' ඛනිජ බද්ද ' යනුවෙන් හඳුන්වනු ලබන] බද්දක් එවැනි තැනැත්තන්ට ලබාදී ඇති අයිතිය මත පළාත් සභාවේ යෝජනා සම්මතයන් මගින් පනවා අයකර ගත හැකිය."*

Upon a plain reading of this section, it is clear that a license is not a prerequisite for the imposition of the tax; rather, it is relevant for determining the applicable tax threshold. Accordingly, the levy of tax is independent of the requirement to obtain a license, as, in tax law, even income derived from unlawful activity may be subject to taxation[3].

For the reasons stated above, Questions of Law (a) and (c) are answered in the negative. Since this Court holds that the Southern Provincial Council acted within its powers in levying Mineral Tax on the Petitioner's production of salt, Question of Law (b) is also answered in the negative.

Similarly, Questions of Law (e) and (f) do not arise for consideration, as this Court has held that the tax imposed on the Petitioner is lawful and not *ab initio* void.

[3] See CIR vs Aken (1988) STC 69.

Although Question of Law (d) is answered in the affirmative, it has not caused any prejudice to the Petitioner.

Conclusion

Questions of Law (a), (c), and (d) having been answered in the negative, I see no reason to interfere with the judgments of the High Court and the Court of Appeal.

Accordingly, the appeal is dismissed with costs.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

Menaka Wijesundera, J.

I agree.

JUDGE OF THE SUPREME COURT